

Commercial Motor Vehicle Enforcement Quarterly

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Captain's Corner

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The deadline for submitting a nomination for the Annual Michigan Association of Chiefs of Police Award for Excellence in Commercial Vehicle Safety is rapidly approaching. In past years nominations were due in January. For 2006, the deadline has been moved up to **November 15, 2006**. Information and nomination forms can be found on-line at www.michiganpolicechiefs.org. Remember, this award not only brings prestige to your agency, it brings with it a prize in the form of equipment worth \$6,000. There is still time to get your nomination in, but time is quickly running out.

Another reminder, speed limits for trucks over 10,000 pounds GVW will be going up on November 9. The new speed limit for large trucks will now be 60 miles per hour on roadways where the speed limit for cars is 70 miles per hour. Look for additional information in this edition of the CMV Quarterly.

With Fall comes shorter periods of daylight, more deer movement and soon-snow and ice. Remember, slow down and "don't veer for deer."

I wish all of you and your families a safe and happy holiday season!



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Size and Weight

Changes to EGVW Statute

Revisions to Section 257.801 have changed the thresholds for Elected Gross Vehicle Weight (EGVW) for pickup trucks and vans. Essentially, the empty weight threshold has increased from 5,000 lbs. to 8,000 lbs., and pickup trucks under 8,001 lbs., regardless of use, are completely out of the EGVW plate requirement.

Over 8,000 Lbs. Empty Weight

- Truck or Pickup truck or van: EGVW plate required. Section 257.801(1)(k) applies.
- Pickup truck or van with a recreational trailer. No EGVW plate required. Section 257.801(1)(j) applies.

8,000 Lbs. Or Less Empty Weight

- Pickup Truck or van with or without trailer: No EGVW plate required. Section 257.801(1)(a) and (p) apply.
- Truck without trailer: No EGVW Plate required. Section 257.801(1)(j) applies.
- Truck with non-recreational trailer: EGVW plate required. Section 257.801(1)(k) applies.

Any Weight

- Any privately owned truck, "used to tow a trailer for recreational purposes only and not used in a profit making venture": No EGVW plate required. Section 257.801(1)(j) applies.
- Any vehicle, including truck-tractor, used to tow a mobile home or trailer coach: No EGVW plate required. Section 257.801(1)(j) applies.
- Any truck-tractor, other than noted above: EGVW plate required. Section 257.801(1)(k) applies.

Ownership of the vehicle is not a consideration except when towing a recreational vehicle and not used in a "profit making venture." Under those conditions the vehicle must be privately owned and would not be required to have an EGVW plate.

Note that the use of the term "non-recreational" does not necessarily imply commercial use. There are a number of instances where a trailer may not be commercial, yet is not being used specifically for recreation. For example, a person transporting yard waste or firewood not as part of a business, is not recreational. However, a person transporting ATVs or snowmobiles on a utility trailer is recreational and an EGVW plate is not required.

Because these changes are very different from what many officers have been taught in the past, officers should carefully review the above information, as well as read through the applicable subdivisions of Section 257.801 ((a), (j), (k), and (p)).

Inspections

9-15 Passenger Operations

Most CMV enforcement officers are not very familiar with limousine and motorcoach operations. This issue and future editions of the CMV Enforcement Quarterly will feature articles on these operations to assist officers in becoming more familiar with the regulations that apply. As with many truck related statutes, state and federal definitions are not always consistent. The Vehicle Code section of this edition features an article on Michigan's Limousine Act.

Michigan's Act 181 adopts the Federal Motor Carrier Safety Regulations (FMCSR) directly into state law. For passenger operations, Section 390.5 of the FMCSR defines a commercial motor vehicle (CMV) as:

- "Is designed or used to transport more than 8 passengers (including the driver) for compensation;
- "Is designed or used to transport more than 15 passengers, including the driver, and is not used to transport passengers for compensation;"

The U.S. DOT Federal Motor Carrier Safety Administration (FMCSA) advises that "for compensation" means for-hire. So vehicles that are designed or used to transport 9-15 passengers for-hire meet the definition of a CMV for purposes of Act 181.

However, Section 390.3(f)(6)(ii) pulls for-hire carriers that are paid by DIRECT compensation back out of the majority of the regulations, if they operate within a 75 mile radius (see the chart below). Per Section 390.3(f)(6)(i), operations that use 9-15 passenger vehicles for-hire but are paid by INDIRECT compensation are also exempted from the majority of the regulations (see the chart below). There is no mileage restriction on these operations.

For-hire passenger carriers operating 9-15 passenger vehicles outside the 75 mile radius are subject to all the FMCSR.

In Fall 2005, Congress passed the Reauthorization Act, known as SAFETEA-LU, which removed the 75 mile radius exemption, however, the FMCSR has not been amended yet, and therefore the exemption is still in state law.

DIRECT compensation is where the passenger pays for the transportation, and it is not included in a total package charge. INDIRECT compensation is where the transportation charge is included in a total package charge.

For-Hire, within 75 mile Radius, Direct Compensation Sect. 390.3(f)(6)(ii)	For-Hire, NOT for Direct Compensation Sect. 390.3(f)(g)(i)	For-Hire, over 75 mile radius
387.33, Minimum Insurance Requirements		All applicable part of the FMCSR
390.15, Maintaining an accident register		
390.19, Completing and submitting to USDOT an MCS-150		
390.21(a) and (b)(2), displaying a USDOT Number on the vehicle. Note that they are exempt from displaying the company name on the vehicle.		

Vehicle Code

Limousine Transportation Act, Act 271 PA 1990

Continuing the discussion on limousines and bus operations, Michigan's Limousine Transportation Act regulates for-hire passenger carriers in vehicles with a design capacity of 15 passengers or less. As this Act does not adopt or reference the Federal Motor Carrier Safety Regulations, these vehicles are subject to both Act 271 and Act 181 (to the extent it applies, as discussed in the *Inspection* section of this edition).



Applicability

Act 271 regulates the for-hire transportation of passengers. Section 257.1903(c) defines "for-hire" as "...the remuneration or reward of any kind, paid or promised, directly or indirectly."

In addition, Section 257.1935 states that a person shall not violate or evade the provisions of this act through any device or arrangement. The phrase "through any device or arrangement" is defined in Section 257.1903(k) as "...any and all methods, means, agreements, circumstances, operations, or subterfuges under which a person undertakes for hire to conduct, direct, control, or otherwise perform the transportation of passengers by limousine upon the public highways of this state."

This sweeping language provides officers with broad authority to enforce the provisions of the Act on for-hire limousine operations.

Two other very important definitions in Section 257.1903 that are necessary to enforce the Act are:

(e) "Limousine" means a self-propelled motor vehicle used in the carrying of passengers and the baggage of the passengers for hire upon a public highway of this state with a seating capacity of 15 passengers or less, including the driver. Limousine does not include a self-propelled motor vehicle having a seating capacity of 15 passengers or less that is used by or on behalf of an employer to transport its employees to and from their place of employment.

(f) "Limo carrier of passengers" means a person who, either directly or through any device or arrangement, holds himself or herself out to the public as willing to undertake for hire to transport by limousine from place to place over the public highways of this state persons who may choose to employ him or her for that purpose.

Exemptions

Section 257.1905 exempts the following operations from the Act:

- City, Township, village, county operations, including transit bus operations, unless operating for-hire outside their political subdivision.
- Funeral limousines, unless operating for-hire outside their political subdivision.
- Limos operating wholly within the boundaries of a local government with an inspection program.
- Metered taxi cabs with a capacity of 3-9 passengers or less, including the driver.

Requirements

Limousine carriers that are subject to the Act must:

- Obtain an annual certificate of authority from the Michigan Department of Transportation (Sections 257.1907 and 1911). The Act does not specify that each limo has to have proof of the certificate, however, MDOT does issue a decal and requires carriers to display it. A current list of all certificate holders is available on MDOT's web site (see below). Certificates expire annually on the last day in February.
- A carrier with limousines of a capacity of 1 to 9 passengers, including the driver, must have bodily injury and property damage liability insurance with a minimum combined single limit of \$1 million. For limos with a capacity of 9 to 15 passengers, including the driver, the limit is \$2 million. In addition, all carriers must have personal protection and property protection insurance (Section 257.1913(2)).
- Each limousine must have an annual inspection by a state certified mechanic, and must provide proof of inspection upon annual renewal of the certificate. However, the Act does not require each limo to carry proof of inspection (Section 257.1919).

Web Site

MDOT maintains a current list of all limousine carriers that have a valid certificate of authority on their web site. Go to www.michigan.gov/mdot, click on "Doing Business" on the left side, then "Passenger Transportation," then "Bus & Limousine." The list is provided by carrier name and by county.

Illegal Operations

Some examples of operations that violate the Act are:

- Carriers from IL, IN, OH without MDOT authority.
- Transit buses outside of jurisdiction.
- Limos using dealer plates.
- Shuttle operations – restaurants, parking lots, sporting events.
- Medical shuttles
- Taxis out of area, flat rate (not metered).
- School bus companies operating as limousines.
- School or church buses charging passengers to games, bars, weddings, casinos, etc.
- Using sedans that don't appear to be limos. Keep in mind that any vehicle can be used as a limousine.
- Carriers often tell passengers to tell the officer that they didn't pay for the ride, or that they are private/not for hire.

REMINDERS

New Statutes

Speed Limit Changes

On November 9, 2006, new speed limits go into effect:

- ◆ School buses, trucks over 10,000 lbs., truck tractors, and combinations of these vehicles can travel at 60 mph whenever the posted speed limit for passenger cars is 70 mph on freeways. These vehicles are limited to 55 mph whenever the posted limit is lower than 70 mph on freeways. (Section 257.627(6).)
- ◆ The minimum freeway speed is increasing to 55 mph. Officers are advised to use discretion when enforcing truck speed laws on freeways where trucks are limited to 55 mph, which is both the minimum and maximum for those vehicles. Generally speaking, slower is safer. (Section 257.628(8).)
- ◆ Passenger cars towing trailers are allowed to travel at the posted speed limit, including the "recreational double" (pickup/fifth wheel recreational camper/second trailer, Sections 257.721(6) and 257.627(5).)

Driver License Changes

Act 298 PA 2006 amended a number of sections in the Michigan Vehicle Code. This review only includes those sections with substantial changes. Any section not mentioned indicates editorial changes only.

- ◆ Section 248f: extensive changes to the salvage vehicle agent statute.
- ◆ Section 302: Exempts military CMVs from the CDL requirements, including certain National Guard civilians.
- ◆ Section 302a: SOS to publish and maintain a current listing on its web site of driver licenses from other countries that are recognized in MI.
- ◆ Section 303(1)(m): SOS cannot issue a license to a person whose CDL application has been cancelled under Section 324(2).
- ◆ Section 303a: Any suspension, revocation, denial, disqualification, or cancellation of any type of license by another state is also applicable in MI.
- ◆ Section 312e(13): The exemption for a motor home has been removed from the CDL section. Motor homes are only exempt if it is recreational in use and not in commerce.
- ◆ Section 312f(1): You must be 18 to get a CDL or 21 to get a CDL with an HM endorsement. You must be at least 18 to get an F endorsement.
- ◆ Section 314(5): Drivers with HM endorsements cannot get an extension if out of state when their license expires.
- ◆ Section 319f: New CDL suspension periods and civil fines for operating a CMV after being placed OOS.
- ◆ Section 319g: New civil fines for employers who allow a CMV to be operated after being placed OOS.